

# Child Soldiers and Clicktivism: Justice, Myths, and Prevention

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The *Kony 2012* campaign, conducted under the auspices of an American advocacy group, Invisible Children, highlighted – somewhat belatedly – the Lord’s Resistance Army (LRA), its leadership, and its many victims in northern Uganda, notably child soldiers.

Deeper questions lurk, however, amid the breezy media flurry. How does *Kony 2012* inform our understanding of child soldiers? How does it sculpt international efforts to prevent child soldiering?

*Kony 2012* draws from and buttresses pre-existing assumptions and narratives. I argue in my book *Reimagining Child Soldiers* that these assumptions and narratives, however well intended, incubate policy initiatives that assuage collective sensibilities but, ultimately, fall short in terms of actual effectiveness (Drumbl, 2012).

People have thought hard about the impact of media on messages for quite some time, including well before the dawn of the internet. Nearly 50 years ago, Marshall McLuhan opined that the medium was (is) the message (McLuhan, 1964). Undoubtedly, activists and non-governmental organizations (NGOs) would do well to harness the power of contemporary social media. But the content of the message itself *still really matters*. Is it sensible for international law and policy to be based upon stylized content deliberately airbrushed just to increase attention-worthiness? More international law, and more attention to international law, does not invariably lead to progress. Substance counts, too. Misguided law, after all, leads to ineffective outcomes.

## Portrayals of Child Soldiers

The image of child soldiering that *Kony 2012* communicates to the public is not representative of the complexities of child soldiering as a whole.

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This image is Africanized. Yet only about 40 percent of child soldiers worldwide are in Africa. This image is of the very young child staggering under the weight of automatic weaponry. Most child soldiers, however, are not young children – most are adolescents, with many aged 15, 16 or 17. Many former child soldiers, upon demobilization, are well into their twenties or, even, thirties. Some, like the LRA's Dominic Ongwen and Thomas Kwoyelo, become notorious senior or middle-level leaders.

Although popularized discourse tends to portray child soldiers as boys, nearly 40 percent of child soldiers are girls. Regardless of their gender, child soldiers often do not carry weapons. Most child soldiers are not implicated in serially committing acts of atrocity, even within the LRA.

The prevailing image, furthermore, is of an abducted child. Although abduction reflects the experiences of a great number of LRA child conscripts, worldwide most child soldiers are neither abducted nor forcibly conscripted. Overall, approximately two-thirds of child soldiers exercise some (at times considerable) initiative in coming forward to enroll. These motivations, which are varied, should be explored. It is counterproductive for activists to deny, dismiss, or wish them away.

Nor are most child soldiers rescued by humanitarians – in particular, Western humanitarians – or by anyone for that matter: most child soldiers exit armed forces (including from the LRA) on their own initiative, through escape or by abandoning the group.

Finally, popular discourse tends to downplay that Western children, too, become militarized and also suffer human rights violations. For example, Australia recently released documents detailing hundreds of cases of physical and sexual abuse of minors – dating back decades – in its national armed forces (Siegel, 2012: 2).

In sum, it may amount to strategic short-term media outreach to portray child soldiers as passive clueless victims, as devastated, and as dehumanized tools of war robotically programmed to kill in purportedly senseless African wars. But these images belie a much more sublime, humanistic, and granular reality of resilience, agency, potential, and globality.

### Prevention, Reintegration, and Rehabilitation

The *Kony 2012* campaign stridently encourages LRA leader Joseph Kony's capture and transfer to the International Criminal Court (ICC) to face an array of charges, including the war crime of unlawful recruitment, enlistment, or active use of children under the age of 15 in hostilities. Although it is a war crime to recruit children younger than 15, child soldiers increasingly are defined as being under the age of 18.<sup>1</sup> This definition meshes with

1 Examples of this push include the Paris Commitments (2007), the Paris Principles (2007), and the Cape Town Principles (1997). Although these instruments do not formally bind states, they have considerable professional, operational, and political currency; moreover,

internationalized understandings of when childhood ends and adulthood begins. These putatively universal understandings are sharply *chronological* in nature, as opposed to liminally *experiential*, and crystallize around the watershed of 18 (Convention on the Rights of the Child: article 1).

The ICC lacks jurisdiction over anyone under the age of 18 (Rome Statute: article 26). This means that it cannot investigate or prosecute a 15, 16, or 17-year-old alleged to have committed acts of genocide, war crimes, or crimes against humanity. This leads to a troubling gap. There is no criminal responsibility at the ICC for the adult recruiter who conscripts 15, 16, or 17-year-olds, and the ICC cannot hold these conscripts responsible for their conduct. A nefarious incentive arises to recruit persons in this age cohort (to wit, the cohort corresponding to the majority of child soldiers).

On a broader note, international law's predilection with chronological binaries places a heavy burden on all soldiers aged 18 or older. They bear the full weight of legal responsibility when they commit crimes. They do so despite the fact they operate in the exact same context as many child soldiers, and despite the currency of neuroscientific research that suggests that the brain continues to develop well past the age of 18. The law, therefore, may be indulgent in its approach to those under the age of 18 while being exigent in its approach to those 18 or older. Advocacy groups that emphasize chronological bright lines end up protecting too much, and too little, at the same time.

Completely coincidental to the viral success of *Kony 2012*, in March 2012 the ICC convicted Thomas Lubanga, a rebel warlord from the Democratic Republic of the Congo (DRC), of the war crime of unlawful recruitment, enlistment, or active use of children under the age of 15 in hostilities. Lubanga – the ICC's first convict – was sentenced in June to 14 years' imprisonment. The Special Court for Sierra Leone (SCSL), sitting exceptionally in The Hague, convicted Charles Taylor in April on charges that included child soldier conscription – he later received a 50-year sentence.<sup>2</sup>

However laudable, the fact remains that criminally prosecuting and convicting commanders who illicitly recruit children into armed forces or groups represents only a tiny step towards justice. Child soldiers do not place such incarceration high on their list of priorities; instead they emphasize education, reconciliation, community reintegration, physical rehabilitation,

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they indicate *de lege ferenda*. In terms of formal law, when it comes to armed groups such as the LRA, recruitment of anyone younger than 18 is unlawful (Optional Protocol, article 4(1)), although it is not yet customary or conventional international law in such instances to ascribe individual penal responsibility for the recruitment of 15, 16, or 17-year-olds. In the case of national armed forces, the push is to permit recruitment at the benchmark age of 18 (Optional Protocol, article 3(1)), though a minority of states permit voluntary enlistment of 16 or 17-year-olds (at times under strict conditions) (Optional Protocol, articles 3(2)–3(3)). Such states include the United Kingdom, United States, Canada, Australia, China, France, Bangladesh, and India.

2 Both Taylor and Lubanga are appealing their convictions. The SCSL, sitting in Freetown, had previously convicted other militia leaders on child soldiering crimes.

medical care, conflict resolution, and jobs. Persons affected by the violent acts of child soldiers need for those harms to be addressed and, in turn, redressed.

It is, moreover, convenient to blame a handful of crazed commanders for child soldiering. But the ease of blame fails to uproot the many factors that conspire to facilitate child soldiering. These factors include the small arms trade, state political alliances, poverty, and illegal export of pilfered natural resources.

At times, ironically, long-term justice may depend on short-term injustice. In Uganda, generous use of amnesties from criminal prosecution – a practice that is now triggering considerable legal controversy – has helped severely weaken the LRA by encouraging fighters to abandon the group. *Kony 2012* glosses over these complexities; it also commodifies Kony's arrest and trial, which it naively sells as a cure-all (Waldorf, 2012).

### Conclusion

The *Kony 2012* campaign – and clicktivism generally – have short attention spans and limited shelf life. The search volume index of 'Kony' meteorically shot up in the wake of the video's rapid dissemination. But it soon plummeted. Searches today in fact appear to be running only slightly higher than they had been before the video went viral. It is my hope that this brusque up–down trajectory does not reflect the pulse of public interest regarding child soldiering. Such would be a palliative outcome and anodyne legacy, indeed, for the *Kony 2012* campaign.

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### Treaties and Other Instruments

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- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 25 May 2000, 2173 UNTS 222 (entered into force 12 February 2002).
- Rome Statute of the International Criminal Court, 17 July 1998, 2187 UNTS 3 (entered into force 1 July 2002).

Cape Town Principles and Best Practices (adopted at a symposium on the prevention of recruitment of children into the armed forces and on demobilization and social reintegration of child soldiers in Africa, convened by the NGO Working Group on the Convention on the Rights of the Child and UNICEF, Cape Town, 27–30 April 1997).

Paris Commitments to Protect Children from Unlawful Recruitment or Use by Armed Forces or Armed Groups (initially endorsed by 58 states at a ministerial meeting held in Paris in February 2007, and endorsed by 100 states as of September 2011).

Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (an elaborative document referenced by the February 2007 Paris Commitments).